

NECPUC PROPOSAL FOR MARKET MONITORING AND MITIGATION UNIT

I. INTRODUCTION

Any ISO or RTO board must be *independent* of market participants. Any Market Monitoring and Mitigation Unit (MMU) must also be independent of both market participants and the ISO operations division. The RTO Board should have the responsibility of ensuring that markets operate efficiently and competitively. As long as the Board is truly independent and is imbued with this mission, it follows that a unit that has both the day-to-day and long-term mission to ensure that anticompetitive behavior does not affect the competitiveness of the market -- i.e. the MMU -- should report to the Board. The Board and the MMU have essentially the same mission; therefore, there is no conflict with having the Board oversee the MMU.

While there is a need to have an entity overseeing whether the RTO is doing a good job of operating the markets, applying the market rules and running a reliable and efficient system, this function can best be performed by FERC. FERC has ultimate authority over the RTO and over the wholesale markets. In fact, FERC's new market monitoring division may well develop expertise that will enable it take a "hands on" approach to overseeing the RTO's running of the markets and coordinating market mitigation methodology across regions. The MMU, as it currently does for the NE-ISO, would submit its reports to the Board and to FERC. If the Board fails to act on any issue brought to the Board's and FERC's attention, the FERC can direct the RTO to act.

Creating an intermediary entity outside of the RTO which shares authority over the markets with the RTO, and which like the RTO answers directly to FERC is not likely to add any benefit to the system now used by the NE-ISO. In fact, having such an

intermediary agency may well cause the kind of balkanization and gridlock that currently exists in NEPOOL. Having one semi-autonomous entity that is answerable to the independent Board and also to FERC (in the sense of filing its reports at FERC) will ensure that market monitoring and mitigation rules are developed and implemented free from the influence of market participants and the operations division of the ISO while maintaining an efficient market monitoring and mitigation system.

II. MMU PROPOSAL

The MMU answers to the RTO board but is free from control by either the market participants or the operations divisions of the RTO. The FERC will have oversight over the RTO, so the MMU should not have to monitor both the markets and the RTO, but should instead focus on making sure that the markets operate efficiently and identifying and mitigating instances of gaming or other anti-competitive behavior. However, the MMU will file its reports both with the Board and the FERC (as is currently the practice).

The current MMU staff from both ISOs would staff the new MMU. The MMU should be fully staffed and should be given sufficient resources to fulfill its monitoring and mitigation functions. The Board has the authority to hire a Market Advisor to advise it and the MMU on matters relating to mitigation methodology and ensuring that markets operate competitively.

The MMU would develop, with input from regulators and participants, the rules for market monitoring and mitigation. The RTO Board would consider input from participants and regulators and the RTO (as directed by its Board) would then make a section 205 filing to propose the market monitoring and mitigation plan or rules and any

amendment to the plan or rules. The section 205 filing would address input provided from market participants, regulators and other interested persons.